



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,280	11/08/2001	Jean-Baptiste Arilla	215377US6	5067
22850	7590	08/05/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			CIRIC, LJILJANA V	
			ART UNIT	PAPER NUMBER

3753

DATE MAILED: 08/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986,280

Applicant(s)

ARILLA ET AL.

Examiner

Ljiljana (Lil) V. Ciric

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004 and 28 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-26 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. This Office action is in response to the replies filed on February 23, 2004 and on April 28, 2004.
2. Claims 8 through 26 remain in the application, of which all are new.

Response to Arguments

3. Applicant's arguments with respect to claims 8 through 26 have been considered but are moot in view of the new grounds of rejection.

Election/Restriction

4. No claims are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species because all of the currently pending claims are readable on the elected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

Oath/Declaration

5. This application presents a claim for subject matter not originally claimed or embraced in the statement of the invention. For example, the new claims recite limitations relating to the drilled holes of the plurality of manifolds being located on the same side of the plurality of manifolds, to a rib being fitted by friction between two abutment portions of at least one duct, and to rods associated with the stator ring. A supplemental oath or declaration is required under 37 CFR 1.67. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

Drawings

6. The drawings were received on February 23, 2004. These drawings are approved.

Specification

7. Receipt and entry of the amended abstract is hereby acknowledged.
8. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: there is no proper antecedent basis for the term "drilled holes" as cited in the claims nor for the term "abutment portions" as also cited in the claims. Recommend inserting "(i.e., drilled holes) immediately following "drillings" [page 2 line 2] in order to rectify the former.

Claim Objections

9. Claims 18 through 26 objected to because of the following informalities, for example: "at least a distributor" [claim 18, line 2; claim 18, line 3; claim 18, line 7] should be replaced with "at least one distributor" for improved readability and grammatical correctness. Appropriate correction is required.

Claim Rejections - 35 U.S.C. § 112

10. The following is a quotation of the first paragraph of 35 U.S.C. 112:
- The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
11. Claims 11 and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. New claim 11 recites that, for each of the manifolds in the inventive assembly, *one of the ribs is fitted by friction between two of the abutment portions of the at least one duct*. There appears to be no description or other disclosure supporting this claim in the originally filed disclosure. These limitations in claim 11 thus constitute new matter. Similarly, new claim 25

Art Unit: 3753

recites that the drilled holes of the plurality of manifolds as being located *on the same side* of the plurality of manifolds. Again, the originally filed disclosure fails to support this claim, especially since the originally filed drawings show the holes as being located *on more than one side* of the plurality of manifolds. Thus, these limitations in claim 25 constitute new matter.

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 8 through 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear which particular structural configuration(s) are encompassed by the limitations "at least one duct having open ends fitted into the openings of the end plates and having abutment portions to the end plates" as recited in the last two lines of claim 8. It is not clear, for example, which particular end plates are referred to by the limitation "the end plates". Does the latter limitation refer to the end plates of a single manifold from among the plurality of manifolds or to the corresponding end plates of two adjacent manifolds or to some other combination of end plates? Similarly, since the term "abutment portions" is not defined by the specification and fails to have proper antecedent basis therein, it is not clear which particular elements or structural configurations are encompassed by this term. Also, it is not clear whether the limitation "having abutment portions to the end plates" is missing a word or words or whether it merely contains idiomatic informalities. If the latter is true, then recommend replacing "to the end plates" with "at the end plates" or similar, as appropriate. Claim 18 contains a similar set of limitations and is similarly rendered indefinite thereby

The limitations "wherein at least one rim of a pair of half-shells has a width different than a rim of another pair of half shells" in claim 9 are not clear as written. First of all, it appears that the width of the at least one rim of a pair of half-shells is being compared to the rim of another

Art Unit: 3753

pair of half-shells (instead of comparing the width of the at least one rim to the width of the rim of another pair of half-shells, as would be more appropriate), thus comparing dimensions to structural elements, instead of comparing like to like. Second of all, it is not clear whether or not either the limitation of "a pair of half-shells" or that of "another pair of half-shells" appearing in claim 9 refers back to the half-shells recited in line claim 8 (from which claim 9 depends), thus further rendering indefinite the scope of protection sought by the claim. Claim 19 contains a similar set of limitations and is similarly rendered indefinite thereby.

Claim 8 recites "a plurality of manifolds *adjacent to the stator ring*" in line 5, claim 10 recites "ribs provided *on the stator ring*", claim 12 recites "rods mounted *on the stator ring*", claim 13 recites "the rods are mounted to the stator ring by elastic connections", and claim 16 recites "the drilled holes of the plurality of manifolds are located *adjacent to said stator ring*", but there is no previous *positive* recitation of the stator ring because the limitation "for ventilating a stator ring" in the preamble of base claim 8 is merely an intended use recitation. Thus the aforementioned limitations create ambiguity as to what is included and what is excluded from the scope of the apparatus claims. Is a stator ring necessarily part of the claimed assembly? If so, it should be positively recited to provide proper antecedent basis for the aforementioned limitations.

Also with regard to each of claims 12 and 21 as written, it is not particularly clear whether the limitations "covering and crossing the plurality of manifolds" refer to the stator ring or to the rods covering and crossing the manifolds.

It is not clear which particular structural configurations are encompassed and which ones are not encompassed by the limitations "the drilled holes of the plurality of manifolds are located on a same side of the plurality of manifolds" as recited in claim 25.

Allowable Subject Matter

14. Claims 8 through 26 would be allowable over the current art of record if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraphs, as set

Art Unit: 3753

forth in this Office action. However, the examiner wishes to caution the applicant that while claims 8 through 26 are currently not properly rejectable using any of the prior art currently of record, further consideration will be necessary to determine whether the claims remain allowable over the prior art once the deficiencies under 35 U.S.C. 112, first and second paragraphs are removed.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The U.S. Patents to Marey, Benoist et al., and Arilla et al., the U.S. Patent Application Publication to Arilla et al., the French patent document to Snecma Moteurs, and the various PCT publications to Snecma Moteurs represent related art having an inventor and/or assignee in common with the instant application. Muller, Takada et al., Siemens AG, and Mahle Filtersysteme GmbH each discloses exhaust manifolds including a paired half-shell design and/or perforations or holes.

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the

Art Unit: 3753

examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (703) 308-3925. While she works a flexible schedule that varies from day to day and from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (703) 308-1272.

The NEW central official fax phone number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

lvc

July 15, 2004



LJILJANA V. CIRIC
PRIMARY EXAMINER
ART UNIT 3753